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SUPREME COURT OF THE UNITED STATES

October Term, 1944.

No. 947

IGAL ROODENKO, PETITIONER,

vs.

UNITED STATES OF AMERICA, RESPONDENT.

PETITION FOR REHEARING.

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To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

The petition of Igal Roodenko respectfully shows to this Honorable Court:

That the judgment denying the Petition for Writ of Certiorari should be vacated and the Petition reheard, reconsidered and granted for the reasons that:

1. The sole charge against petitioner was a violation of Rules and Regulations promulgated by the Selective Service System for detaining conscientious objectors in a camp continuously (except for furloughs) and governing their entire lives at all times therein.

2. The only claimed provision in the Selective Training and Service Act of 1940, relative to petitioner or his conduct, after being classified as a conscientious objector to both combatant and non-combatant service, is comprised in the words, in section 5 (g) of the Act that "in lieu of * * * induction", (the objector shall) "be assigned to work of national importance under civilian direction".

3. The Act is devoid of

a. Definition of, or guides or standards for determining what is, work of national importance.

b. Guides or standards for the "civilian direction".

4. As to an objector, found, under the Act, exempt from induction, the Act is the same as the National Industrial Recovery Act in that "Instead of prescribing rules of conduct, it authorizes the making of codes to prescribe them"—condemned as unconstitutional in *A.L.A. Schechter Poultry Corp. et al. vs. United States,* 295 U. S. 495 (above quotation at 541).

5. While the Selective Training and Service Act was enacted for *the* (and only the) expressed purpose of increasing the personnel of the armed forces and contains specific and voluminous (and admittedly valid) provisions for registration, examination, classification, deferment, etc., of all male persons between the prescribed ages, it contains no provision for the government, regulation or control of any person who has registered, been examined, classified and found exempt from induction, except that he shall be "assigned to work of national importance under civilian direction" and the Act "*is silent on detention*" as was the Act involved in the case of *Ex Parte Endo,* 65 S. Ct. 208 (Dec. 18, 1944) in which the detention, in camps, of citizens of Japanese ancestry was held unauthorized.

6. Under the *Schechter* and *Endo cases,* the Selective Service System's establishment of detention camps for conscientious objectors and the rules and regulations promulgated for the complete government of those objectors in such camps, are without constitutionally delegated authority and are void.

7. If the many decisions (including that here sought to be reversed) which have held, or assumed, the constitutionality of the camps and the rules and regulations, are permitted, by denial of the petition in this case, to stand as the law, then a far step will have been taken toward the elimination of the distinction between legislature and executive—toward the destruction of all restrictions and safeguards on the delegation of legislative powers to executive and administrative agencies, in short, toward dictatorship.

6. If said decisions are permitted to stand as the law, on this phase of the Selective Training and Service Act, there will have been perpetuated the national hypocracy of formally recognizing religious freedom, with the legislative hand, while penalizing the exercise of that freedom, with the hand of administrative agencies, and, coincidently, a long step will have been taken toward peonage.

These points are more fully set forth in the petition which has been denied.

CONCLUSION.

Not simply in the name of this petitioner; not simply in the names of the conscientious objectors as a class, but in the name of the preservation of our Constitutional government, this Court is hereby petitioned to reconsider and vacate its judgment denying the petition for a writ of certiorari and to rehear and grant said petition.

CARLE WHITEHEAD,
Counsel for Petitioner.

I do hereby certify that I have carefully examined the foregoing petition for a rehearing and the allegations thereof are true, as I verily believe, and in my opinion the petition is well founded and the case is one in which the prayer of the petition should be granted by this Court.

CARLE WHITEHEAD,
Counsel for Petitioner.